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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 DENISE ELIZABETH.,

14 Plaintiff,

15 vs.

16 TIMOTHY FRANZ GEITHNER, et
al.

17 Defendants.

) Case No. CV12-7719 CAS (VBKx)

) UNITED STATES OF AMERICA'S
) NOTICE OF MOTION AND MOTION
) TO DISMISS UNDER RULES 8 AND
) 12 OF THE FED. R. CIV. P.

) Hearing date: January 14, 2013, at 10
a.m.,

) Courtroom 5 (Room 218-J; 2nd Floor)
) Federal Courthouse
) 312 North Spring Street
) Los Angeles, California

) Judge Christina A. Snyder

22 On January 14, 2013, at 10 a.m., the United States will request the Court to
23 dismiss Plaintiff's complaint under Rules 8 and 12 of the Federal Rules of Civil
24 Procedure for the reasons set forth in the accompanying memorandum.
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1 In compliance with L.R. 7-3, on November 13, 2012, counsel for the United
2 States wrote to Denise Elizabeth Lam notifying her of the Government's
3 anticipated motion and requesting that he contact counsel for the Government. A
4 copy of the Government's letter is attached as exhibit A. Counsel for the United
5 States has received no response to his November 13 letter to the plaintiff.

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7 Respectfully Submitted,

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9 ANDRÉ BIROTTE JR.
10 United States Attorney
11 SANDRA R. BROWN
12 Assistant United States Attorney
13 Chief, Tax Division

14 DATED: 11/29/2012


15 JAMES C. HUGHES
16 Assistant United States Attorney

17 Attorneys for Defendant
18 United States of America
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U. S. Department of Justice

*United States Attorney
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Room 7211 Federal Building
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November 13, 2012

FILE

Denise Elizabeth
Denise Elizabeth Lam
622 South Broadway #5
Redondo Beach, California 90277

Re: *Denise Elizabeth v. Timothy Franz Geithner*
Case No.: CV 12-7719 CAS (VBKx)

Dear Ms. Lam:

Local Rule 7-3 of the Central District of California requires that counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly the substance of the contemplated motion and any potential resolution.

In compliance with this rule, I am contacting you to advise you that the Government anticipates filing a motion to dismiss your recent complaint in this case. Specifically, the Government will assert that:

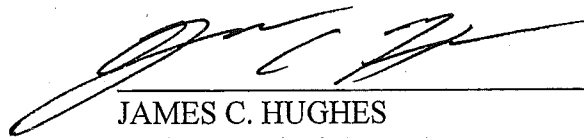
- a. The Court lacks subject-matter jurisdiction over any discernible claims in the complaint;
- b. You have not properly served the United States as required by the Federal Rules of Civil Procedure;
- c. You have failed to state a claim on which relief may be granted; and
- d. You have failed to comply with Rule 8 of the Federal Rules of Civil Procedure requiring a short and plain statement of (1) the grounds for the Court's jurisdiction and (2) the claim showing that you are entitled to relief.

Authority in support of the Government's anticipated motion include the following cases in which complaints similar to yours have been dismissed: *Ruiz v. Geithner*,¹ *Holman v. Paulson*,² and *Keith v. Everson*,³ which cites to several other cases dismissing similar complaints.

Please contact me no later than November 19, 2012, so that we may discuss this matter. I may be reached at (213) 894-4961.

Very truly yours,

ANDRÉ BIROTTE JR.
United States Attorney



JAMES C. HUGHES
Assistant United States Attorney

¹ 2009 WL 3232160 (S.D. Cal. 2009)

² 2009 WL 1465461 (E.D. N.C. 2009)

³ 2004 WL 2601073 (D.Nev. 2004)

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of the United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7211, Los Angeles, California 90012.

On **November 29, 2012**, I served

United States of America's Notice of Motion and Motion to Dismiss Under Rules 8 and 12 of the Fed.R.Civ.P.

on the person and entity name below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

SEE ATTACHED.

Date of mailing: **November 29, 2012**.

Place of mailing: Los Angeles, California

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **November 29, 2012**, Los Angeles, California.



MARIA LUISA Q. BULLARD

RE: DENISE ELIZABETH V. TIMOTHY FRANZ GEITHNER, et al.

CASE NO. CV12-7719 CAS (VBKx)

SERVICE LIST

Denise Elizabeth
622 S. Broadway, Suite 5
Redondo Beach, CA 90277

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